

VOLUME II, NO. 299

HONOLULU, H. T. SUNDAY, MAY 26, 1901

PRICE FIVE CENTS

EXECUTIVE INTERFERENCE WITH JUDICIAL RIGHTS

Three Lawyers Sent to Prison for Contempt of Court Given Immediate Pardons.

A. S. Hartwell, W. A. Kinney and S. M. Ballou,
Attorneys for Walter G. Smith, Offer Studied
Insult to Judge Humphreys—Full Report
of Eventful Day's Proceedings.

In the First Circuit Court yesterday morning the climax of a week of sensational occurrences, started the spectators who were present and amazed and dumfounded to a degree both the Court and the members of the bar. The previous events connected with the work of the Grand Jury in probing into the charges of bribery made against members of the Legislature had led the query to be handed about: Where will it all end? The climax of yesterday would indicate to a people given to serious thought upon matters of public policy and the common weal, that it will end in the establishment in Honolulu of a wholesome respect for an independent judiciary, run and operated upon the American plan, fearless in the application and enforcement of procedure, involving the rights of parties, the interests of justice and the dignity of the bench.

The arraignment of Walter G. Smith under indictment by the Grand Jury for perjury was set for 10 o'clock yesterday morning. He was represented by Attorneys A. S. Hartwell, W. A. Kinney and S. M. Ballou. By three o'clock yesterday afternoon, each of these lawyers were in the custody of High Sheriff Brown, under sentence of thirty days' imprisonment for contempt of court. The cause of this sentence being imposed upon this trio of lawyers was the filing of a malicious, false and slanderous affidavit, made by Walter G. Smith in support of a motion, submitted to the Court asking for a change of venue. The motion was made on the ground that the trial of the case should be held at the Hawaiian Islands. The cause of this sentence being imposed upon this trio of lawyers was the filing of a malicious, false and slanderous affidavit, made by Walter G. Smith in support of a motion, submitted to the Court asking for a change of venue. The motion was made on the ground that the trial of the case should be held at the Hawaiian Islands.

Kinney Starts the Case.
Mr. Kinney—May it please the Court, Judge Hartwell and our firm, Kinney, Ballou & McClanahan, appear for the defendant, and before the arraignment I should like to ask in an informal way of the Court, whether the Court intends to try this case.

The Court—Whether the Court intends to try this case?
Mr. Kinney—Your Honor intends to try this case?
The Court—Why do you make that inquiry?
Mr. Kinney—Because, if the Court asks, I would state that if the Court intends to—had intended or does intend to try the case, that then I would interpose a motion opposing it; but that I do not wish to interpose my motion if as a matter of fact the Court itself had made up its mind not to try the case; it would be unnecessary and would in my judgment be improper for us to interpose the motion until there had been some intimation certainly that it was necessary.

The Court—It is impossible for the Court to say now whether it will try this case or not. If, without avoiding any of its responsibilities this Court can assign this case to Judge Gear for trial, it will do so; otherwise it will hear the case. You may make any motion which you deem proper; if it is a proper motion it will be considered; if it is an improper motion it will be treated as such.

Mr. Kinney, in a few moments began the reading of the following affidavit:

**THE INDECENT AND
FALSE AFFIDAVIT**

In the Circuit Court of the First Judicial Circuit, Territory of Hawaii—May Term, A. D. 1901.
Territory of Hawaii vs. Walter G. Smith—Perjury.

Affidavit of defendant in support of disqualification of A. S. Humphreys, Judge of First Circuit Court aforesaid, Territory of Hawaii, Island of Oahu, ss.

Walter G. Smith, the defendant in the above entitled action being duly sworn deposes and says:
That he knows A. S. Humphreys, First Judge of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, having first made his acquaintance during the month of November in the year A. D. 1899, at which time he returned to the Territory of Hawaii having been absent therefrom since the year 1894, when he was managing editor of the "Star," having been managing editor of said paper when the same was organized and established, and continuing in the editorship of said paper until his departure from the Hawaiian Islands in May, A. D. 1894.

That at the time he made the

acquaintance of the said judge he, the said Judge, was practicing his profession of law in the city of Honolulu; That upon his arrival here in the said year of 1899 took charge of the Pacific Commercial Advertiser as editor which position he has held ever since;

That as well as the said Judge maintained friendly relations for some time after the acquaintance between them was formed as aforesaid, such friendly relations being largely social up to the early part of the year 1900; That at that time sharp differences began to arise in the Republican party in Hawaii upon matters affecting party policy and party discipline;

That as well as the said Judge were Republicans and took opposing sides as to the differences aforesaid within their party and that such opposing views between said Judge and said Judge led to a number of sharp discussions between them in which it became manifest and apparent to said Judge that he and said Judge were hopelessly apart politically speaking;

That during the month of April or May in the year 1900 said Judge informed him that he was opposed to the policy of the "Advertiser" and proposed to establish a newspaper in opposition to said "Advertiser" and the policy and principles advocated in said newspaper under the editorship of said Judge; and during said month said Judge named finally approached said Judge and offered him the editorship of the proposed newspaper and in presence of said Judge during said month, visited said Judge frequently and made long stays with said Judge at his office and elsewhere; and during these interviews said Judge persistently urged said Judge to accept his proposition and said Judge before said Judge in his political aspirations and his plans;

That during the pendency of said negotiations on the part of said Judge to secure said Judge's services as editor of his proposed paper, said Judge continued in said "Advertiser" to steadily oppose the policy of said Judge in political matters;

That notwithstanding this, said Judge persisted in his solicitation that said Judge join political fortunes with him and take charge of a newspaper as aforesaid, and in this connection said Judge said that said Judge in pressing his solicitations upon said Judge as aforesaid, and in outlining his own political plans, laid bare to said Judge many matters strictly personal to said Judge, showing the unlimited ambitions of said Judge and an inordinate opinion of his own abilities and qualifications, and generally the personal weaknesses of said Judge.

Stopped by the Court.

At this point the Court interrupted Mr. Kinney, the following repartee ensuing:

The Court—Now you can just stop reading that affidavit right there Sir.
Mr. Kinney—I desire to be heard upon that matter.

The Court—The Court will not hear you any further upon that affidavit Sir, and you can stop right there.

Mr. Kinney—But I wish to be heard upon the right of the Court to stop me from reading the affidavit.

The Court—The Court will not permit you to read an insulting affidavit in this Court.

Mr. Kinney—The Court don't apprehend my point. I stop when the Court tells me to stop. The Court don't apprehend.

The Court—The Court apprehends your motive, and you will not be permitted to read that affidavit Sir in this Court.

Mr. Kinney—I desire to be heard upon—

The Court—And the Court has ruled that you will not be permitted to read that paper Sir.

Mr. Kinney—I bow to the ruling of the Court and ask to be heard upon that point.

The Court—And the Court will not hear you upon that point.

Mr. Kinney—There, the Court has apprehended my motion, and if the Court denies it, I now desire to enter an exception to the refusal of the Court to allow me to continue the reading of this affidavit, and further as an abuse of discretion on the part of the Court. And also to enter my exception to the ruling of the court denying me the right to be heard upon that question as an abuse of discretion on the part of the Court.

The Court—The exception may be noted and the motion for a change of venue in this case from the personnel of the Court is stricken from the files

and the attorneys who filed that motion are directed to appear before this Court at two o'clock this day to show cause why they should not be punished for contempt.

Mr. Kinney—I note an exception, not to the appearance at two o'clock, but I do note an exception to the striking of this motion from the files and the evidence on the ground that it is an abuse of discretion on the part of the Court and a denial of the right of this defendant to be freely heard and without intimidation on the part of the Court on the question of the right of your Honor to try him.

The Court—A man who insults and defames and belittles and sneers at the Court very likely presumes that the Court is prejudiced against him. Mr. Bailiff call Walter G. Smith to the bar.

Mr. Dole.—If the Court please I do not wish to act hastily or without consideration, and I would suggest to the Court in order that neither the Court nor the Attorney General may act hastily, that the arraignment be postponed until two o'clock.

The Court—Until two o'clock.

Mr. Dole.—Yes, your Honor.

The Court—The arraignment may be postponed until two o'clock. The arraignment is postponed solely on the request of the Attorney General. The Court is ready to proceed with it, but solely on the request of the Attorney General the arraignment is postponed until two o'clock.

You will appear at the Bar of this Court, Sir, at two o'clock.

Balance of the Affidavit.

For the benefit of Republican readers, the unred portion of the affidavit is inserted here and runs as follows: That while treating the solicitations aforesaid, of the said Judge, with courtesy, as a matter of fact had no confidence either in the solicitations of said Judge or in his ability to make good his plans for his own advancement or the advancement of said Judge, and finally declined all the offers and propositions aforesaid, but did so far as possible in a way not to wound the feelings of said Judge or incur his personal enmity or ill-will;

That after said Judge refused the office aforesaid said Judge became quite cool in his personal conduct toward said Judge, although no open rupture occurred between them. Thereafter said Judge did establish a newspaper called the Republican, which has ever since been published in the City of Honolulu, and that said newspaper has, as said Judge is informed and believes, been entirely under the control, direction and management of said Judge from its establishment to date. That in due time after the passage of the Organic Act creating the Territory of Hawaii said Judge received his present appointment and shortly thereafter, for reasons unexplained, said Judge again became very friendly in his conduct toward said Judge, manifesting said friendliness by repeated visits to said Judge in his office and protestations of friendliness of one kind and another, and thereupon said Judge proposed without the request or suggestion of said Judge to appoint said Judge's brother as clerk of the Court; that thereupon, and in pursuance of said suggestion, said Judge made the direct suggestion to said Judge, in consideration of such appointment, the said Judge use his position in the Advertiser to further the political fortunes of said Judge, and in this connection said Judge said that the exact words of said Judge in making the suggestion aforesaid were as follows: "You understand that this is a case of 'back scratching.' That said Judge told said Judge that he could not use the Advertiser to either reward said Judge's friends or attack his enemies, whereupon the Judge waived the point and said he was still ready to make the appointment and thereupon did make the appointment, assuring said Judge that he had arranged the matter satisfactorily with the other Judges. That after said appointment the said Judge varied in no particular the policy of said paper nor did he abate in any degree whatsoever his opposition to the political policies favored by said Judge and that thereupon, and as said Judge believes by reason of said Judge's continuance in said course, said Judge cut off all friendly relations with said Judge and at the expiration of three months said Judge's brother was summarily dismissed from his office, as said Judge verily believes, because he, said Judge, failed to modify the policy of the Advertiser in its opposition to the plans and policies of said Judge. And said Judge further states that at the same time with the dismissal of his brother and the occurrences herein last referred to said Judge cut off all personal relations with said Judge whatsoever, his speaking acquaintance ceased and said Judge began to show violent personal animosity against said Judge, as evidenced by the attacks that were opened up against said Judge in the editorial columns of the Judge's newspaper, the Republican aforesaid, and otherwise.

That for the period of one month past the said Republican has been bitterly opposed to the Advertiser and that said newspapers are politically opposed to each other in a business and political way, and the relations of the editorial and business managements of the respective papers aforesaid, are very much strained.

That within three weeks said Judge received a personal message from said Judge through a reporter of the Advertiser in effect as follows: I take this opportunity to send word to you editor of the Advertiser that I have the most profound contempt for him and for the vicious and criminal policy which he is pursuing in this community. That as said Judge is informed and believes the said message was delivered by said Judge in connection with a request, and as a result of a request,

from a reporter of said Advertiser, acting on the direction of said Judge, to ascertain how and under what circumstances certain licenses to practice law had been issued to a large number of members of the present Legislature.

The said Judge further states that by reason of the premises and otherwise that he, said Judge, verily believes and charges that he cannot secure at the hands of said Judge a fair and impartial trial of his cause herein, but that said Judge is hopelessly biased and prejudiced against said Judge and is not capable of giving said Judge and will not give said Judge a fair and impartial trial.

With the affidavit was another affidavit of J. H. Fisher, treasurer of the Robert Grievous Publishing Company, as follows: And now comes J. H. Fisher and upon oath deposes and says: That he is a stockholder and the treasurer of the Robert Grievous Publishing Co., Ltd., the owners and publishers of a newspaper called the "Honolulu Republican" now being published in Honolulu;

That said Judge in his capacity as aforesaid has the custody of the stock books of said company and knows the ownership of the stock of the same; That A. S. Humphreys, now Judge of the First Circuit Court of Hawaii is a stockholder in said corporation and is the owner of 335 shares;

That Mrs. Julia A. Fisher, mother-in-law of said A. S. Humphreys, is the owner of 350 shares of the stock of said corporation;

That the said A. S. Humphreys holds the proxy of and votes the stock of the said Julia A. Fisher at all meetings of the said company;

That the shares of stock now held by said A. S. Humphreys and Julia A. Fisher constitute the majority of the shares of the corporation and carry the control thereof; the number of shares of said corporation now being 1090 and the number of shares owned by said A. S. Humphreys and said Julia A. Fisher amounting to 685;

That the said A. S. Humphreys although not a director in said corporation is practically in control of said company and the policy of said paper.

(Signed) J. H. FISHER,
Subscribed and sworn to before me this 25th day of May, A. D. 1901.
(Signed) GEO. L. BIGELOW,
Notary Public.

**OCCURRENCES OF THE
AFTERNOON SESSION**

At 2 o'clock, the court room was filled with an expectant assembly. Nearly every member of the bar, many business men and others interested in the proceedings occupied all available seats. The respondents, W. A. Kinney and S. M. Ballou were represented by A. G. M. Robertson; A. S. Hartwell by F. M. Hatch.

In behalf of Mr. Hartwell Mr. Hatch said that whatever else could be said, we must admit that its members are "Honest." What can the community think of such strips of "Honest" men, Mr. Editor, and what sort of political shoals is our Territorial bark drifting onto, when men in the highest offices of the government stoop to such low methods of fighting those who dare stand up for and propagate the doctrine of "Equal Rights."

This country is under a Constitution and Flag that mean something more than the perpetration of a crime and the death of a man in going to carry from office every man who has become contaminated by its environment and associations.

Let justice prevail for equal rights.
HONOLULU, Saturday, May 25, 1901.

name to be entered of record as associate counsel with General A. S. Hartwell. Thereupon an order was made entering Mr. Kinney's name as counsel of record with General Hartwell for the defendant, Smith. Then Mr. Kinney addressed the Court as follows:

"Judge Hartwell and our firms, Kinney, Ballou & McClanahan, appear for the defendant, and before the arraignment I should like to ask in an informal way of the Court, whether the Court intends to try this case, or not; that, if, without avoiding any of its responsibilities, the Court could assign the case to Judge Gear for trial it would do so, otherwise it would hear the case. Continuing the Court said:

Court Intimated Its Course.

"Here was a plain intimation that this Court did not intend to try this case, and would not try this case unless its responsibilities demanded of it that it should try the case. There was a plain statement that the case unless its responsibilities demanded of it that it should try the case. There was a plain statement that the case should be assigned to Judge Gear for trial, the Court having previously announced at the opening of this term, and having announced continuously during the term, and the Attorney General having knowledge of the fact that the Court would not try any criminal cases during this term of Court. Judge Gear, being absent from the country, it was thought necessary to await his return before making an assignment of cases.

"Mr. Kinney, after an informal recess of five or ten minutes then came into court with an affidavit which he proceeded to read down to a point where the court told him to stop."

The Court then read from the affidavit the portion read by Mr. Kinney at the morning session at the close of which the court continued:

"When this point was reached the court instructed counsel to desist from reading this affidavit any further, the court then and now believing it to be a malicious attempt to edit the records of the court by the defendant Smith, assisted, aided and abetted by his counsel in the case."

"The court will now say that during the noon recess it has read the entire affidavit, the affidavit in its entirety as filed by the defendant Smith, and that each and every statement in said

(Continued on Eighth Page.)

ATTORNEY GENERAL DOLE BECOMES A STAR REPORTER

To the Editor of The Republican:
Sir:—This community is making history fast—very fast—so fast in fact that some men whom you would credit with better sense are prostituting their high offices to the end of assisting a favored clique of intriguers in traducing the character of the occupant of a seat in a co-ordinate branch of the Government of this Territory.

I consider it my duty as a citizen to make public mention of a state of facts which accidentally came to my notice while on a visit to the Attorney General's office this day at noon. While thus engaged, the lady typist entered and excusing herself for the interruption, proceeded to interrogate Mr. Cathcart about the signature of Mr. J. H. Fisher to an affidavit which was one of a number of sheets of typewritten matter she held in her hand. She stated that his name appeared at the beginning of the affidavit, but was not signed to the document from which she was copying. Mr. Cathcart pleaded ignorance of the documents under review and the young lady enlightened him with the information that it was part of some documents that Mr. Dole had ordered her to copy, the copy to be given to the reporter of the "Star" as soon as the same could be completed.

I excused myself and left the room while the young lady and Mr. Cathcart were still in conversation saying I would see Mr. Dole during the afternoon.

I called later, found Mr. Dole out and was on my way to the Judiciary building when I saw Mr. Dole coming from that building. I hailed him just as he was stepping from the curbstone on the makai side of King street on his way to his office, but waving his hand at me in a somewhat excited fashion he replied: "Leave me alone. I have no time to see you now." Later on I called at the Executive building to see him, out was told he was closeted with L. A. Thurston.

About five o'clock I left the Executive building and went to my store where I first saw the "Star" of this afternoon, and the moment my eye caught sight of the Fisher affidavit in connection with the full reprint of the Walter G. Smith affidavit, the connection between the same and the typewriting which the Attorney General ordered his office assistant to prepare for publication in that paper, became apparent to me.

Attorney General E. P. Dole deliberately, willfully and maliciously assisting by every means at his command, in a scheme to yield for publication a document which had been suppressed by the presiding officer in a co-ordinate branch of the Government of this Territory, because said document cast unjust reflections on the attitude and conduct of the officer before whom the same was being read. Attorney General E. P. Dole, who should by the very nature of his office, have been the defender of the good name of his co-official whose character was being maligned.

Attorney General E. P. Dole who a few short months ago told the writer that whatever else could be said of the government, it must be honest, we must admit that its members are "Honest." What can the community think of such strips of "Honest" men, Mr. Editor, and what sort of political shoals is our Territorial bark drifting onto, when men in the highest offices of the government stoop to such low methods of fighting those who dare stand up for and propagate the doctrine of "Equal Rights."

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JOHN EMMELUTH.

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(Continued on Eighth Page.)

MRS. M'KINLEY WAS AT DEATH'S PORTALS

Plans for President's
Outing Therefore
Changed.

DANGER BELIEVED TO BE PASSED

SAN FRANCISCO GIVES CHIEF
EXECUTIVE HEARTY AND
ROYAL WELCOME.

Hurried Departure From Del Monte—
Stupendous Reception at Pacific
Coast Metropolis—First Lady of
the Land Reported Improving.

SAN FRANCISCO, May 12.—The sudden illness of Mrs. McKinley has caused an unexpected change in the itinerary of President McKinley. He arrived in this city quietly this afternoon several hours ahead of the time scheduled. The state of Mrs. McKinley's health was such this morning that the President decided to leave Del Monte and bring his wife to this city immediately to the home of Henry T. Scott, where she could have complete rest for a few days and where a specialist could be consulted if necessary. A special of two cars and a locomotive was made up for the President's special, and at 12:30 the President, Mrs. McKinley, Miss Barber, the President's niece, Secretary Cortelyou and wife, Dr. Riser and H. T. Scott and wife left Del Monte for San Francisco, leaving the remainder of the Presidential party at Del Monte. The President, in order to avoid the crowd that was expected to assemble at the Southern Pacific depot at Third and Townsend streets, left the train with his little party at Valencia street, a station in the southern part of the city.

Rejoicing at San Jose.
SAN JOSE, May 13.—Thousands of people between Del Monte and San Jose, who have been anticipating a visit of the President for days and weeks and months, were disappointed today. The President's presence in San Jose for an hour this afternoon took the edge off of the disappointment here where a rose carnival was being held in honor, and where the floral display was something ever before seen in this part of the country.

After leaving Del Monte this morning the Cabinet carried out the itinerary as originally planned, stopping at Palmar and Santa Cruz, and leaving the life trees in this San Francisco valley, but they had no heart to not into the festivities in the absence of their chief, and the hour of the morning was wasted on their side. Many expressions of sympathy were heard at each stopping place.

Reception at San Francisco.
SAN FRANCISCO, May 14.—The climax of the Presidential triumphal tour across the continent was reached with his official entry into the city of his destination this afternoon. The President had had many remarkable demonstrations since he left Washington a fortnight ago, but nothing that had preceded it faded away before the tremendous ovation he got here.

San Francisco never before witnessed anything remotely approaching it. In numbers, noise, enthusiasm and display it was overwhelming. The stentorian welcome began miles before the station was reached, as the train passed between solid lines of cheering people. It swelled into a perfect bedlam of whistles, sirens and booming cannon as the train pulled into the station, and then for hours was continued the roar of voices that arose at sight of him as his carriage rolled by.

Although the President had been here for forty-eight hours with his sick wife, he did not become officially the guest of the city until he was formally received this afternoon. He boarded the train at Valencia street station, several miles out, in order that the original program might be executed. The awful din as the train drew into the station was deafening. Every steam whistle in the city and harbor was opened wide, the white warships off the city front were booming national salutes, batteries of artillery were firing salvoes and hundreds of sirens added their wailing to the terrific volume of sound.

The President's carriage, drawn by six black horses, and protected by a troop of regular cavalry from the Provisional, with a file of California elite war veterans in white duds, high boots and red helmets marching abreast on either side, took the head of the procession, and the three and a half mile parade through the streets of San Francisco began. As the carriages passed the military, formed at the intersecting streets, wheeled into line platoon front.

The parade was immense. It was strictly military in character and was heard over their own band music. Every branch of the service was represented.

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